IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13366 of 2004

Between:

1. Uppanuthala Pulla Rao, S/o.Satyam,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
2. Papollu Veeranagaiah, S/o.Satyam,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
3. Rupa Naga Maha Lakshmi, W/o.Sitaramaiah,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
4. Papolu Subba Rao, S/o.Gavaraiah,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
5. Papopu Mavullamma, W/o.Subba Rao,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
6. Uppanuthala Raghavendra Rao, S/o.Satyam,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
7. Uppanuthala Jayalakshmi W/o.Pulla Rao,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
8. Papolu Venkata Srinivas, S/o.Durga Rao,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
9. Garapathi Rama Sita, W/o.Late G.R.Prabhakara Rao,
   R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
   West Godavari District.
10. Garapati Ramakrishna Maheswara Rao, S/o.Satyam,
    R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
    West Godavari District.
11. Bikkina Krishna Rao, S/o.Venkata Ramanna,
    R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,

West Godavari District.
12.V.Durga Prasad, S/o.V.Sankaraiah,
R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
West Godavari District.
13.Uppalapati Satyam, S/o.Venkaiah, R/o.Mathannagudem, Taduwai(V),
Jangareddygudem Mandal, West Godavari District.
14. Ponnaganti Kasi Viswanadham, S/o.Nagaiah,
R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
West Godavari District.
15. Ponnaganti Nageswara Rao, S/o.Kasiviswanadham,
R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
West Godavari District.
16. P.Krishna Mohana Rao, S/o.Perumandlu,
R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
West Godavari District.
17. Ponnaganti Krishna Murthy, S/o.Nagaiah,
R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
West Godavari District.
18. Rupa Satyasai Sudhakar, S/o.Sitaramaiah,
R/o.Mathannagudem, Taduwai (V),Jangareddygudem Mandal,
West Godavari District.

..... PETITIONERS

AND

1. Govt.of A.P.rep.by its Principal Secretary to Govt. Irrigation &
Command Area Development Department,
A.P.Secretariat, Hyderabad.
2. The Chief Engineer, Medium Irrigation, Erramanzil, Hyderabad.
3. The Executive Engineer (ID),JR&YR Division, Janagareddygudem,
W.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of a writ of mandamus by declaring the action of the Respondents in not entering into lease agreements to permit the petitioners to irrigate the lands held by them till the actual submersion takes place as illegal, arbitrary and contrary to the policy of the government and consequentially direct the respondents to not to interfere with the occupation and enjoyment of the lands held by the petitioners till the actual submersion takes place.

Counsel for the Petitioner:MR.K.G.K.PRASAD

Counsel for the Respondent Nos.1 to 3: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

ORDER:

Petitioners seek a writ of Mandamus declaring the action of the respondents in not entering into lease agreements to permit the petitioners to irrigate the lands held by them till the actual submersion takes place as arbitrary and illegal.

It is not in dispute that the lands in question were acquired under the notification issued under Section 4(1) of the Land Acquisition Act, 1923 dated 12.12.2003 for the purpose of construction of Yerracalva Reservoir (foreshore submersion area). It is also not in dispute that the petitioners were already paid 80 percent of the compensation. The case of the petitioners is that due to the prevailing drought conditions, the submersion did not take place, and consequently the petitioners have been continuing in possession of the lands in question and as on today, there is standing crop of Sugarcane. It is stated that in the circumstances, they made a representation dated 01.05.2004 to the Chief Engineer, Medium Irrigation, Erramanzil, Hyderabad, requesting to permit them to cultivate their lands till the actual submersion takes place on lease basis in terms of the Government Memo dated 10.08.1981 and also as per para 172 of PWD Code. It is alleged that the Chief Engineer, Medium Irrigation, failed to consider their representation and no orders have been passed. Hence this writ petition.

The third respondent-Executive Engineer I & CAD Department, Yerrakalava Project Division, Jangareddygudem, West Godavari District, filed a counter-affidavit stating that the works of Yerrakalva Reservoir Project were commenced in the year 1977 and simultaneously the acquisition of foreshore submergible lands was also started. During the progress of works of Yerrakalava project, some land owners, whose lands were acquired, have represented to cultivate the lands on lease basis. The Government issued orders to lease out the acquired lands to the land owners, which are not required immediately, vide Govt.Memo dated 18.08.1981 and Memo dated 12.11.1987 subject to the condition that the leases so granted shall be cancelled immediately without giving any notice as and when there is threat of submergence of the lands under the project. In pursuance of the said Government Orders, some

leases were granted under normal terms and conditions to the land owners in accordance with the prevailing circumstances. So far as the lands in question are concerned, it is stated that the compensation was already paid at the concerned rates to all the petitioners and that since the water is proposed to be stored at +83.500 MWL during this season, the acquired lands of the petitioners will get submerged and therefore, the acquired lands cannot be given on lease to the petitioners. It is also stated that the second tier gates to store water to Maximum Water Level (MWL) +83.500 meters are erected in the year 2003 and the Reservoir is presently capable of storing the water as contemplated and almost all the submersible lands under this phase are acquired and the compensation was also paid to the land owners.

In the light of the specific plea taken by the respondents in their counter-affidavit, I do not find any merit in the contentions of the petitioners. The Government Orders dated 18.08.1981 and 12.08.1987 referred to by the petitioners which were issued in the circumstances prevailing at that point of time cannot be extended to the lands of the petitioners in view of the proposal to store water to the second phase level which would result in submergence of all the acquired lands during this season. Hence, the action of the respondents in not entering into lease agreement with the petitioners permitting them to irrigate the lands claimed to be in their possession cannot be held to be either arbitrary or illegal.

Accordingly, the Writ Petition is dismissed. No costs.

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03-11-2004

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To

1. The Principal Secretary, Govt.of A.P.. Irrigation &
Command Area Development Department,
A.P.Secretariat, Hyderabad.
2. The Chief Engineer, Medium Irrigation, Erramanzil, Hyderabad.
3. The Executive Engineer (ID),JR&YR Division, Janagareddygudem,
W.G.Dist.

4. Two C.Cs to the G.P. for Irrigation & Command Area,, High Court
Buildings, Hyderabad (OUT).

5. Two C.D. copies.